

CHAPTER 8  
PAROLE AND WORK RELEASE CONSIDERATION

[Prior to 2/22/89, Parole, Board of[615] Chs 3, 4, 5]

**205—8.1(906) Purpose of parole and work release considerations.** The board shall determine whether there is reasonable probability that an inmate committed to the custody of the department of corrections who is eligible for parole or work release can be released without detriment to the community or to the inmate. The board shall consider the best interests of society and shall not grant parole or work release as an award of clemency.

**205—8.2(906) Parole and work release eligibility.**

**8.2(1) Mandatory sentences.** The board shall not grant parole or work release to an inmate serving a mandatory minimum sentence. A parole or work release granted contrary to this rule shall be rescinded. Mandatory sentences are as follows:

- a. A life sentence imposed for conviction of a Class “A” felony pursuant to Iowa Code section 902.1;
- b. A mandatory minimum sentence imposed for use of a firearm pursuant to Iowa Code section 902.7;
- c. A mandatory minimum sentence imposed for violation of uniform controlled substance provisions pursuant to Iowa Code section 124.406 or 124.413;
- d. A mandatory minimum sentence imposed for being an habitual offender pursuant to Iowa Code section 902.8;
- e. A mandatory minimum sentence imposed for a prior forcible felony pursuant to Iowa Code section 906.5.

**8.2(2) Parole and work release while on patient status.** Generally, the board will not grant parole or work release to an inmate on patient status.

**8.2(3) Parole to detainees.** The board may grant parole to an inmate against whom a detainer has been placed by another state. Generally, the board will not parole an inmate to a detainer that is solely for prosecution.

**8.2(4) Parole to other states.** The board may grant parole to another state pursuant to the provisions of the interstate parole and probation compact set forth in Iowa Code chapter 907A.

**205—8.3(904A) Inmate orientation.** The board shall request an inmate committed to the custody of the department of corrections to attend an orientation on parole and work release. The board shall inform the inmate of:

1. The earliest eligibility for parole or work release;
2. The maximum permissible length of the sentence;
3. The rules and procedures regarding the issuance of parole or work release;
4. The availability of parole or work release interview waivers.

**205—8.4(906) Prior forcible felony mandatory minimum sentence.** The board shall deny parole or work release to an inmate who is serving a mandatory minimum sentence pursuant to Iowa Code section 906.5.

**205—8.5(904A) Risk assessment.** The board shall assess the risk of an inmate committed to the custody of the department of corrections. The board shall utilize the current edition of the Iowa offender risk assessment model.

**205—8.6(906) Parole and work release considerations.**

**8.6(1) General.** The board shall interview each person committed to the custody of the department of corrections other than an inmate convicted of a Class “A” felony and consider the person’s prospects for parole or work release at least once each year.

**8.6(2) Initial interview.** Following the admission of an inmate to the custody of the department of corrections, the board may conduct an initial parole and work release interview according to the following schedule:

- a. Class “D” felony—approximately 6 months after the inmate’s commitment.
- b. Class “C” felony—approximately 10 months after the inmate’s commitment.
- c. Class “B” felony—approximately 12 months after the inmate’s commitment.

**8.6(3) Annual interview.** Following the initial interview, the board shall interview the inmate at least once in each succeeding 12-month period.

**8.6(4) Interview exceptions.** The following are exceptions to the initial and annual interview rules:

- a. The board will interview an inmate serving a life sentence pursuant to the executive clemency rules set forth in 205—Chapter 14.
- b. The board will not interview an inmate who is on work release status or OWI treatment status unless the inmate requests an interview.
- c. The board will not interview an inmate who is on patient status at the Iowa Medical and Classification Center unless the inmate requests an interview and the medical staff approves the interview.
- d. The board will not interview an inmate who is unavailable for the interview because of institutional transfer, hospitalization, release on court order, or other reason. The board will interview the inmate when interviews are next conducted at the institution where the inmate is incarcerated.
- e. The board will not personally interview an inmate who is incarcerated in an institution outside the state of Iowa. The board will arrange for an interview by the appropriate authority in that jurisdiction to be held, and the summary of the interview shall be forwarded to the board for its consideration.

**8.6(5) Case review.** The board may review an inmate’s records and consider the inmate’s prospects for parole or work release at any time. The board shall only notify an inmate granted parole or work release.

**8.6(6) Corrections initiated review.** The department of corrections may recommend an inmate for parole or work release consideration at any time. The board shall determine whether to consider the inmate by conducting an interview or a case review.

**205—8.7(906) Parole and work release progress report.** The board shall notify the department of corrections or a district department when an inmate is to be considered for parole or work release. The receipt of notice by the department of corrections or the district department shall constitute a request for a progress report on the inmate. The board shall request information required for parole or work release decision making. The department or the district department shall furnish a completed progress report to the board.

**205—8.8(906) Interview notice.** The board or the board’s designee shall notify an inmate to be interviewed for parole or work release consideration of the time and purpose of the interview.

**205—8.9(906) Continuance.** The board may reschedule or continue a parole or work release interview upon its own motion or upon a showing of good cause.

**205—8.10(906) Factors considered in parole and work release decision.**

**8.10(1)** The board may consider the following factors and others deemed relevant to the parole or work release decision:

- a. Previous criminal record;
- b. Nature and circumstances of the offense;
- c. Recidivism record;

- d.* Convictions or behavior indicating a propensity for violence;
- e.* Participation in institutional programs, including academic and vocational training;
- f.* Psychiatric and psychological evaluations;
- g.* Length of time served;
- h.* Evidence of serious or habitual institutional misconduct;
- i.* Success or failure while on probation;
- j.* Prior parole or work release history;
- k.* Prior refusal to accept parole or work release;
- l.* History of drug or alcohol use;
- m.* A parole plan formulated by the inmate;
- n.* General attitude and behavior while incarcerated;
- o.* Risk assessment.

**8.10(2)** Psychological and psychiatric evaluations. The board may request a complete psychiatric or psychological evaluation of an inmate whenever, in the opinion of the board, it would be beneficial to its decision. The board will routinely request an evaluation of an inmate convicted of a crime involving sexual abuse or personal violence, or of an inmate who has committed assaults or violent acts while incarcerated.

**205—8.11(906) Information disclosure to inmate.**

**8.11(1)** The board shall consider only information that has been reviewed by the inmate, except where the board deems such review not feasible. The information shall be considered only if the following safeguards are followed:

*a.* The staff of the department of corrections shall discuss the information with the inmate and disclose to the inmate any factual allegations if the disclosure can be done in a manner that protects confidential sources. Factual allegations shall include but not be limited to:

- (1) Any statements attributed to the inmate;
- (2) Any allegations of criminal or antisocial behavior with or without court conviction from within or without the institution;
- (3) Any allegations of threats made by the inmate;
- (4) Any allegations of drug addiction or alcoholism;
- (5) Any allegations regarding family history, employment or education;
- (6) Disciplinary record at the institution.

*b.* If any information from outside institutions under the supervision of the department of corrections is to be considered by the board, and it is necessary to protect the source, the inmate shall be informed of at least the following:

- (1) The general substance of the information;
- (2) The number of communications;
- (3) The type of communications.

The inmate shall be given the opportunity to respond to information.

*c.* The inmate's reports from institutions under the supervision of the department of corrections, including reception reports, progress reports, medical reports, and social information or reports, should, to the extent possible, be structured so as to separate opinion from factual information. The factual information shall be made available for review by the inmate; opinion information shall be confidential. Psychiatric or psychological test results or diagnosis shall be deemed confidential.

**8.11(2)** A parole liaison officer may review any file and investigate any facts, allegations, opinions, or comments contained therein. If communications adverse to the inmate or parolee are considered by the board, the inmate or parolee shall be informed of the fact.

**205—8.12(906) Interview procedure.** The board panel shall interview the inmate and consider the inmate's records with respect to history, current situation, parole and work release prospects, and other

pertinent matters. The panel shall give the inmate ample opportunity to express views and present materials.

**205—8.13(906) Case review procedure.** The board panel may consider the inmate's records and other information with respect to history, current situation, parole and work release prospects, and other pertinent matters. A case review may take place at any time and is in addition to any other required review.

**205—8.14(906) Conduct at parole proceedings.**

**8.14(1) *Open to public.*** Parole proceedings shall be open to the public except as otherwise necessary or proper.

**8.14(2) *Conduct of inmate.***

*a.* Conduct of the inmate shall be in a manner consistent with decorum appropriate for a participant in a public meeting of a governmental body.

*b.* An inmate may not orally or otherwise communicate with spectators or others present at the parole proceeding except as directed by the panel or board.

*c.* The inmate should speak to the panel or board or counselor only when asked a question or directed otherwise to do so.

*d.* Each inmate will be given an opportunity to make an independent statement to the panel or board at some point during the parole proceeding. The panel or board may limit this statement in any manner as to topic or time. Specifically subject to this limitation will be persons who have no realistic grounds to believe a parole will be granted; i.e., those with mandatory minimum sentences, those serving life terms, or those having served short times relative to the severity of their crimes and length of their sentences.

*e.* Failure to comply with the direction of the panel or board in limiting statements, in communicating with persons present at the parole proceeding, or any absence of decorum which could disrupt or delay the proceeding will result in a forfeiture of the right to an interview, and a request by the board to have the institutional staff remove the inmate.

*f.* An inmate who forfeits the right to an interview for reasons under 8.14(2) "e" or for any other reason shall not be interviewed again until the inmate's next annual review except that the inmate may request an earlier interview. The request is to be made through the board liaison officer, the counselor or other institutional staff member, or the ombudsman, together with assurance by the inmate that no repeat of the offending conduct or other offending conduct will occur. A reinterview is subject to the discretion of the panel or board.

**8.14(3) *Conduct of spectators.***

*a.* Spectators may not participate in the parole proceedings. The number of spectators will be limited by the number of seats provided. Only board staff or institutional staff will be allowed to stand during the interviews or between interviews, except during breaks of the panel or board or as necessary to enter and leave during times designated by the panel. An exception will be made for television camera operators.

*b.* Spectators may not enter or leave the room during interviews or between interviews, except that the board panel will designate times when persons may enter and leave. This will be done at reasonable intervals, and may be between interviews even though the board does not take a break.

*c.* Entering and leaving the interview room before and after the interview sessions and during breaks in the interview sessions shall be subject to the restrictions imposed by the staff of the institution at which the session is being held.

*d.* Spectators shall make no utterances which are intended to or can be heard by the inmate or the panel. This includes any conversation among spectators.

*e.* Spectators shall conduct themselves in a manner consistent with decorum appropriate for a public meeting of a governmental body.

f. Any activity deemed inappropriate by the panel or institutional staff under the guidelines in the rules may result in a request by the panel or institutional staff for the offending party or parties to leave. Warnings for inadvertent or minor misconduct may or may not be given the first time and any subsequent offending activity will result in a request to leave. Refusal to leave upon request will result in a request by the panel to have the person or persons removed by the institutional staff.

All spectator places shall be on a first-come, first-served basis in accord with the rules of the institution or the department of corrections.

g. Spectators who leave during a time designated for entering or leaving or during a short break by the panel may retain their place if the person returns at the next time designated for that purpose. A person does not retain a place at the hearing over breaks taken for lunch, dinner or overnight.

**8.14(4) *Conduct of the media.***

a. *General.* Broadcasting, televising, recording and photographing will be permitted in the interview room during open sessions of the board or panels, including recesses between sessions, under the following conditions:

(1) Permission first shall have been granted by the institution or department of corrections, which may prescribe conditions and restrictions for bringing equipment into areas of the institution.

(2) Media coverage is prohibited of any proceeding which is held in closed session under Iowa law.

(3) The quantity and types of equipment permitted in the interview room shall be subject to the discretion of the panel or board within the guidelines in these rules, and subject to the permission of the institution or department of corrections.

(4) Notwithstanding the provisions of any of these procedural or technical rules, the panel or board may permit the use of other equipment provided the application for variance is made in advance. Ruling upon the variance application shall be in the discretion of the panel or board, subject to permission of the institution or department of corrections to bring in or move equipment.

(5) The panel or board may limit or terminate photographic or electronic media coverage of any or all media participants at any time during the proceedings in the event the panel or board finds that rules established under this or additional rules imposed by the institution or department of corrections have been violated.

(6) The rights of motion picture and electronic coverage provided herein may be exercised only by persons or organizations which are part of the news media, except that individuals may use sound tape recorders.

b. *Advanced notice of coverage.* All requests by representatives of the news media to use television cameras or electronic sound recording equipment in the interview room shall be made to the institution in accord with department of corrections rules.

c. *Equipment specifications.* Equipment to be used by the media or public in interview rooms or meeting rooms during interview proceedings or board meetings held at the institutions must be unobtrusive and must not produce distracting sound. In addition, the equipment must satisfy the following criteria, where applicable:

(1) *Still cameras.* Still cameras and lenses must be unobtrusive, without distracting light or sound.

(2) *Television camera and related equipment.* Television cameras are to be electronic and, together with any related equipment to be located in the interview room, must be unobtrusive in both size and appearance, without distracting sound or light. Television cameras are to be designed or modified so that participants in the parole interview being covered are unable to determine when recording is occurring.

(3) *Audio equipment.* Microphones, wiring and audio recording equipment shall be unobtrusive and shall be of adequate technical quality to prevent interference with the proceeding being covered. Any changes in existing audio systems must be approved by the panel or board. No modifications of existing systems shall be made at public expense.

(4) *Advance approval.* It shall be the duty of media personnel to demonstrate to the panel or board reasonably in advance of the proceeding that the equipment sought to be utilized meets the criteria set forth in this rule. Failure to obtain advance panel or board approval for equipment may preclude its use

in the proceeding. All media equipment and personnel shall be in place at least 15 minutes prior to the scheduled time of commencement of the proceeding.

*d. Lighting.* Other than light sources already existing in the interview room, no flashbulbs or other artificial light device of any kind shall be employed in the interview room. With the concurrence of the panel and institutional staff, however, modifications may be made in light sources existing in the interview room (e.g., higher wattage light bulbs), provided the modifications are installed and maintained without public expense.

*e. Equipment and pooling.* The following limitation on the amount of equipment and number of photographic and broadcast media personnel in the interview room shall apply:

(1) *Still photography.* Not more than two still photographers, each using not more than two camera bodies and two lenses, shall be permitted in the interview room during a parole proceeding at any one time.

(2) *Television.* Not more than two television cameras, each operated by not more than one camera person, shall be permitted in the interview room during a parole proceeding. All components must be contained within the area designated for the camera. Where possible, recording and broadcasting equipment which is not a component part of a television camera shall be located outside of the interview room.

(3) *Audio.* Not more than one audio system shall be set up in the interview room for broadcast coverage of a parole proceeding. Audio pickup for broadcast coverage shall be accomplished for any existing audio system present in the interview room, if the pickup would be technically suitable for broadcast. Where possible, electronic audio recording equipment and any operating personnel shall be located outside of the interview room.

(4) *Pooling.* Where the above limitations on equipment and personnel make it necessary, the media shall be required to pool equipment and personnel. Pooling arrangements shall be the sole responsibility of the media and the panel or board shall not be called upon to mediate any dispute as to the appropriate media representatives authorized to cover a particular parole proceeding.

*f. Location of equipment and personnel.* Equipment and operating personnel shall be located in, and coverage of the proceedings shall take place from, an area or areas within the interview room designated by the panel or institutional staff. The area or areas designated shall provide reasonable access to the proceeding to be covered.

*g. Movement during proceedings.* Television cameras and audio equipment may be installed in or removed from the interview room only when the panel or board is not in session. In addition, the equipment shall at all times be operated from a fixed position. Still photographers and broadcast media personnel shall not move about the interview room while proceedings are in session, nor shall they engage in any movement which attracts undue attention. Still photographers shall not assume body positions inappropriate for spectators.

*h. Decorum.* All still photographers and broadcast media personnel shall be properly attired and shall maintain decorum appropriate for public meeting of a governmental body at all times while covering a parole proceeding.

## **205—8.15(906) Parole and work release decisions.**

**8.15(1)** The board shall grant parole to an inmate on work release status if at least three members of the board agree that the inmate can be released without detriment to the community or to the inmate. If three members do not agree, the board shall deny parole.

**8.15(2)** The board shall grant parole or work release to an inmate assessed as an excellent, very good or good violence risk only if at least three members of the board agree that the inmate can be released without detriment to the community or to the inmate. If three members do not agree, the board shall deny parole or work release.

**8.15(3)** The board shall defer granting parole or work release to an inmate assessed as a poor violence risk and refer the case to the full board for review. The full board shall grant parole or work release if at least four members agree that the inmate can be released without detriment to the community or the inmate. If four members do not agree, the board shall deny parole or work release.

**8.15(4)** The board shall defer granting parole or work release to an inmate assessed as a very poor violence risk and refer the case to the full board for review. The full board shall grant parole or work release if the board members unanimously agree that the inmate can be released without detriment to the community or the inmate. If the board members do not unanimously agree, the board shall deny parole or work release.

**205—8.16(906) Notice of parole and work release decision.**

**8.16(1)** The board shall give notice of a decision to grant parole by issuing an order for parole to the inmate, the department of corrections, and the district department.

**8.16(2)** The board shall give notice of a decision to grant work release by issuing an order for work release to the inmate, the department of corrections, and district department.

**8.16(3)** The board shall give notice of a decision to deny parole or work release by issuing a notice of parole or work release denial to the inmate and the department of corrections or the district department.

These rules are intended to implement Iowa Code section 21.7 and chapters 904A and 906.

[Filed 7/26/76, Notice 1/26/76—published 8/9/76, effective 9/13/76]

[Filed 2/7/79, Notices 10/4/78, 11/1/78—published 3/7/79, effective 4/11/79]

[Filed 6/2/80, Notice 2/6/80—published 6/25/80, effective 7/30/80]

[Filed 9/23/82, Notice 7/7/82—published 10/13/82, effective 11/19/82]

[Filed 4/5/83, Notice 2/16/83—published 4/27/83, effective 6/1/83]

[Filed 7/13/84, Notice 5/9/84—published 8/1/84, effective 9/4/84]

[Filed 2/11/85, Notice 10/10/84—published 2/27/85, effective 4/13/85]◊

[Filed 2/6/89, Notice 12/28/88—published 2/22/89, effective 3/29/89]

CHAPTER 9  
PAROLE AND WORK RELEASE RESCISSION  
Reserved